APPENDIX

VIRGINIA:

In the Supreme Court of Appeals held at the Supreme Court of Appeals Building in the City of Richmond on Wednesday the 19th day of April, 1967.

The petition of Roy Seth Hale for a writ of error and supersedeas to a judgment rendered by the Circuit Court of Roanoke County on the 9th day of November, 1966, in a prosecution by the Town of Vinton against the said petitioner for a misdemeanor, having been maturely considered and a transcript of the record of the judgment aforesaid seen and inspected, the court being of opinion that the said judgment is plainly right, doth reject said petition and refuse said writ of error and supersedeas, the effect of which is to affirm the judgment of the said circuit court.

A Copy,

Teste:

/s/ H. Turner, Clerk

VIRGINIA:

Before John W. Eggleston, Chief Justice of the Supreme Court of Appeals of Virginia, on Friday, the 5th day of May, 1967, in vacation of said Court.

Roy Seth Hale, Plaintiff in error,

against Record No. R-7567

Town of Vinton, Defendant in error.

ORDER STAYING EXECUTION OF JUDGMENT

Upon consideration of the application of the plaintiff in error, by counsel, praying for a stay of execution of the judgment entered herein on April 19, 1967, in order that he may have reasonble time and opportunity to present to the Supreme Court of the United States a petition for a writ of certiorari to review the judgment of this court, it is now ordered that the execution and enforcement of the judgment of this court in the above-styled case entered on April 19, 1967, be, and the same is hereby, stayed, until the 18th day of July, 1967, on the expiration of which time the same may be enforced unless the case has been before that time docketed in the Supreme Court of the United States, in which event enforcement thereof shall be stayed until the final determination of the case by that court.

The above stay, however, is not to discharge the petitioner from custody, if in custody, or to release his bond if out on bail.

/s/ John W. Eggleston
Chief Justice of the Supreme
Court of Appeals of Virginia

A Copy,

Teste: /s/ H. Turner, Clerk

CODE OF VIRGINIA, 1950

§ 18.1-55.1 Use of chemical test to determine alcohol; procedure; qualifications and liability of person withdrawing blood; costs; evidence, suspension of license for refusal to submit to test; localities authorized to adopt parallel provisions. –

> . . . (c) If a person after being arrested for a violation of § 18.1-54 or of a similar ordinance of any county, city or town and after having been advised by the arresting officer that a person who operates a motor vehicle upon a public highway in this State shall be deemed thereby, as a condition of such operation, to have consented to have a sample of his blood taken for a chemical test to determine the alcoholic content thereof, and that the unreasonable refusal to do so constitutes grounds for the revocation of the privilege of operating a motor vehicle upon the highways of this State, then refuses to permit the taking of a sample of his blood for such tests, the arresting officer shall take the person arrested before a committing magistrate and if he does again so refuse after having been further advised by such magistrate of the law requiring a blood test to be taken and the penalty for refusal, and so declares again his refusal in writing upon a form provided by the Chief Medical Examiner of Virginia (hereinafter referred to as Chief Medical Examiner), or refuses or fails to so declare in writing and such fact is certified as prescribed in paragraph (j), then no blood sample shall be taken even though he may thereafter request same.

§ 18.1-58 Penalty; subsequent offense; prior conviction. – Any person violating any provision of § 18.1-54 shall be guilty of a misdemeanor and shall be punished, for a first offense by a fine of not less than two hundred dollars nor more than one thousand dollars or by confinement in jail for not less than one month nor more than six months, either or both in the discretion of the jury or the court

trying the case without a jury. Any person convicted within any period of ten years of a second or other subsequent offense under § 18.1-54, or convicted of a first offense under § 18.1-54 after having been convicted within a period of ten years prior thereto of an offense under former § 18-75, shall be punishable by a fine of not less than two hundred dollars nor more than one thousand dollars and by confinement in jail for not less than one month nor more than one year. For the purposes of this section a conviction or finding of not innocent in the case of a juvenile under the provisions of § 18.1-54, former § 18-75, the ordinance of any county, city or town, in this State or the laws of any other state substantially similar to the provisions of §§ 18.1-54 through 18.1-57 of the Code shall be considered a prior conviction.

§ 18.1-59. Same; forfeiture of driver's license; suspension of sentence. – The judgment of conviction, or finding of not innocent in the case of a juvenile, if for a first offense under § 18.1-54, or for a similar offense under any county, city or town ordinance, shall of itself operate to deprive the person so convicted or found not innocent of the right to drive or operate any such vehicle, conveyance, engine or train in this State for a period of one year from the date of such judgment, and if for a second or other subsequent offense within ten years thereof for a period of three years from the date of the judgment of conviction or finding of not innocent thereof, any such period in either case to run consecutively with any period of suspension for failure to permit a blood sample to be taken as required by § 18.1-55.1. If any person has heretofore been convicted or found not innocent of violating any similar act of this State and thereafter is convicted or found not innocent of violating the provisions of § 18.1-54, such conviction or finding shall for the purpose of this section and § 18.1-58 be a subsequent offense and shall be punished accordingly; and the court may, in its discretion, suspend the sentence during the good behavior of the person convicted or found not innocent.